



NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER GUIDELINE - VOLUNTARY DISCLOSURE PROGRAM

FEBRUARY 2018

The North Dakota Voluntary Disclosure Program (Program) allows a taxpayer that has been conducting business activities in North Dakota or has been collecting but not remitting North Dakota sales tax to voluntarily come forward and resolve potential tax liabilities. The Program allows such taxpayers to anonymously seek a resolution with the Office of State Tax Commissioner (Tax Commissioner) for income, withholding, and sales and use taxes.

Generally the disclosure period (look-back) is three years for the Program. The length of the look-back period will depend upon the disclosure statement provided in the taxpayer's written request. Based on circumstances of limited presence, the Tax Commissioner may enter into an agreement for prospective compliance. The look-back period does not include the current tax year if the original or extended due date (if applicable) has not yet passed.

ELIGIBLE PARTICIPANTS

- A taxpayer that has not filed a tax return or made tax payments to North Dakota for the tax type that is the subject of the Program.
- A taxpayer that has not been contacted previously by the Tax Commissioner or the Multistate Tax Commission regarding its filing status.

APPLICATION PROCESS

A taxpayer wishing to enter into or wanting to know more about the Program may contact the Tax Commissioner anonymously. To enter into a voluntary disclosure agreement, the taxpayer must provide a written disclosure statement containing the following information:

- The entity type that is applying for participation and a description of the taxpayer's activities.
- The approximate date activities started in North Dakota and the number of years the taxpayer has been doing business in North Dakota.
- List of years the taxpayer owned or leased property or equipment in North Dakota.
- List of years and length of time taxpayer had employees or representatives in North Dakota.
- The type of tax or taxes to be included in the voluntary disclosure agreement.
- An estimate of the tax liability for the period covered by the proposed voluntary disclosure agreement.
- An explanation for the failure to register or file and pay the taxes for past activities.
- A statement of whether North Dakota sales or use taxes were collected.
- A statement that the taxpayer has not been previously contacted by the Tax Commissioner or by the Multistate Tax Commission.
- The taxpayer's proposed voluntary disclosure agreement period.

The taxpayer may preserve confidentiality by not revealing the name of itself or any information that could readily identify it during the voluntary disclosure process until the agreement is finalized.

VOLUNTARY DISCLOSURE PROPOSAL

The voluntary disclosure request is reviewed by the Tax Commissioner and each tax type request is considered separately, based on its own facts. If approved, the taxpayer will receive two copies of the proposed Voluntary Disclosure Agreement (VDA). One copy of the VDA must be completed and signed by the taxpayer or its authorized representative and returned to the Tax Commissioner within 60 days of the original mailing date. If a signed and dated VDA is not received within 60 days, the proposal will be considered withdrawn and the VDA void. Upon timely receipt of the signed VDA by the Tax Commissioner, the taxpayer will have 30 days to provide the requested information, registration, returns, and schedules. An extension can be requested if the taxpayer requires additional time to complete the VDA requirements.

If any of the information received in support of the VDA is misrepresented, the Tax Commissioner may consider the VDA void and assess applicable tax, penalty, and interest.

In instances where tax has been collected by the taxpayer from customers and not remitted, the Tax Commissioner will require all of the tax collected to be remitted but may consider waiving all penalty, provided the taxpayer pays all tax and applicable interest.

DISCLOSURE CONTACTS

Correspondence requests regarding the Program should be mailed to the address below with attention to the tax-specific individual. Email and telephone contacts are listed for questions or inquiries.

Office of State Tax Commissioner
600 E. Boulevard Ave., Dept. 127
Bismarck, ND 58505-0599

Income Tax
Gary Feist
701.328.1881
gffeist@nd.gov

Sales /Use Tax
Patrick Baros
701.328.3007
pbaros@nd.gov

Withholding Tax
Liliya Montgomery
701.328.3477
lmontgomery@nd.gov

For more information on the Program go to our website frequently asked questions at www.nd.gov/tax/faqs/

MULTISTATE VOLUNTARY DISCLOSURE PROGRAM

A taxpayer that has a tax liability in more than one state may consider applying for multistate voluntary disclosure through the Multistate Tax Commission (MTC). For more information about the MTC's voluntary disclosure program and the application process go to www.mtc.gov/Nexus-Program/Multistate-voluntary-Disclosure-Program.